

UNITED STATES DISTRICT COURT

for the

Western District of Texas**FILED**

September 24, 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

United States of America

v.

BY: cd
DEPUTY

Case No. SA-20-MJ-1160

THOMAS BENTON GAGE*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 12, 2019 in the county of Bexar in the
Western District of Texas, the defendant(s) violated:*Code Section**Offense Description*

21 U.S.C. § 843(a)(3)

Obtaining or acquiring a controlled substance by misrepresentation,
fraud, deception or subterfuge

PENALTIES:

UP to 4 years imprisonment, \$250,000 fine, up to 1 years supervised
release, \$100 special assessment

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.

JAMES PHILLIPS

Digitally signed by JAMES PHILLIPS
Date: 2020.09.23 17:38:13 -05'00'*Complainant's signature*James Phillips, SA DEA*Printed name and title*

- ☐
- Sworn to before me and signed in my presence.
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- ☒
- Sworn to telephonically and signed electronically.

*Judge's signature*Date: September 24, 2020City and state: San Antonio, TexasRICHARD B. FARRER, U.S. MAGISTRATE JUDGE*Printed name and title*

AFFIDAVIT IN SUPPORT OF APPLICATION FOR CRIMINAL COMPLAINT

I, James Phillips, being duly sworn, depose and state:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for the issuance of a criminal complaint authorizing the arrest of **THOMAS BENTON GAGE** in San Antonio, Bexar County, Texas.

2. I am an investigative law enforcement officer of the United States within the meaning Title 18, United States Code (U.S.C.), Section 2510 (7), that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests of offenses enumerated in Title 18, U.S.C. § 2516.

3. I am a Special Agent of the United States Drug Enforcement Administration (DEA) and have been so employed since 1997. My responsibilities include the investigation of possible criminal violations of the United States Narcotics Laws (Title 21, United States Code), the Money Laundering Control Act (Title 18, United States Code), the Bank Secrecy Act (31 U.S.C. Section 5311, et. seq.), and related offenses. As a Special Agent of the DEA for approximately twenty-three years, I received extensive basic training at the U.S. Drug Enforcement Law Enforcement Training Center in Quantico, Virginia and other venues. This training covered all aspects of narcotics investigations. I have also attended professional training covering various aspects of financial investigations, including money laundering and asset forfeiture.

4. I have personally directed or assisted in numerous narcotics and money laundering investigations. I have also participated in the execution of search and/or seizure warrants on businesses, residences, safe deposit boxes, and vehicles. I am submitting this affidavit in support

of an application which seeks the issuance of a federal criminal complaint authorizing the arrest of **THOMAS BENTON GAGE** in San Antonio, Bexar County, Texas.

5. I have personally participated in the investigation of the offenses alleged in this affidavit along with other task force officers and special agents, and I am thoroughly familiar with the information contained in this affidavit through personal investigation, knowledge and observations made by me during the course of the investigation. Based upon my investigation and my familiarity with the facts, and based upon the collective information obtained by investigative officers and agents, I know the evidence will show the following:

6. Special Agents, Task Force Officers and Diversion Investigators for the Drug Enforcement Administration (DEA) are conducting an investigation into the illegal diversion of pharmaceutical controlled narcotics by **THOMAS BENTON GAGE**. In support of this application, Affiant alleges the following.

7. On August 12, 2019, a CVS Pharmacy, located inside of a Target store at 5355 West Loop 1604 North, San Antonio, Texas 78253, reported to the San Antonio Police Department that their pharmacist, **THOMAS BENTON GAGE**, stole pharmaceutical controlled narcotics and other merchandise while working. The controlled narcotics stolen by **GAGE** were Hydrocodone-acetaminophen 10-325mg tablets and Oxycodone 20mg tablets; both Schedule II narcotics of the Controlled Substance Act (CSA).

8. On August 12, 2019, management of CVS and Target interviewed **GAGE** about the stolen narcotics and merchandise. During the interview, **GAGE** admitted and confessed to stealing 300 Hydrocodone-acetaminophen 10-325mg tablets and three Oxycodone 20mg tablets. **GAGE** stated that during 2016, **GAGE** suffered from chronic back pain and was prescribed Hydrocodone-acetaminophen for his pain. When the prescription ended, **GAGE's** back pain still

existed. **GAGE** advised that because the pain continued, he took 3-4 tablets of Hydrocodone at a time from the “C-2” cabinet, by walking into the back of the pharmacy and taking the tablets from the bottle. **GAGE** denied selling or providing the tablets to anyone, indicating that he had taken the tablets only for himself for his own pain. **GAGE** said he took 2-3 tablets “a couple of times a week for a three-year period. **GAGE** stated that he stole no more than 300 Hydrocodone tablets and a few Oxycodone tablets over the past year.

9. CVS management personnel maintain that **GAGE** provided inaccurate and misleading information to avoid internal accounting mechanisms that would have allowed CVS to detect his activities.

10. On August 15, 2019, **GAGE**’s employment with CVS was terminated.

11. On August 29, 2019, CVS reported to the Drug Enforcement Administration (DEA) the theft of 2,254 Hydrocodone-acetaminophen 10-325mg tablets and 160 Oxycodone 20mg tablets, via a DEA form 106.

**JAMES
PHILLIPS**

Digitally signed by JAMES
PHILLIPS
Date: 2020.09.23
17:39:38 -05'00'

James Phillips
Special Agent
Drug Enforcement Administration

Sworn to telephonically and signed electronically on September 24, 2020.



THE HONORABLE RICHARD B. FARRER
UNITED STATES MAGISTRATE JUDGE
WESTERN DISTRICT OF TEXAS